

ATTACHMENT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

FLOWBEE INTERNATIONAL, INC. and
FLOWBEE HAIRCUTTER
LIMITED PARTNERSHIP,

Plaintiffs,

V.

GOOGLE, INC.,

Defendant.

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CIVIL ACTION NO. 2:09-CV-199

JURY TRIAL DEMANDED

DECLARATION OF RICK HUNTS

I, RICK HUNTS, pursuant to the provisions of 28 U.S.C. § 1746, declare:

1. My name is Rick Hunts. I am over the age of 18 years, am competent to make this declaration, am fully familiar with the facts stated below, and submit this declaration in support of Plaintiffs' response to Defendant Google Inc.'s Motion to Dismiss Under Rule 12(b)(3) or alternatively, Motion to Transfer This Action to the Northern District of California ("Motion to Dismiss"). All of the facts stated herein are true and correct according to my personal knowledge.

2. I currently serve as President for Flowbee International, Inc. ("Flowbee International") and have held this position since 1996. I am also a limited partner in Flowbee Haircutter Limited Partnership ("Flowbee Haircutter"). As President of Flowbee International, I am responsible for managing all of the business activities of the company and its affiliated entities.

3. I reside in Corpus Christi, Texas. The principal places of business and operations of both Flowbee International and Flowbee Haircutter are located in Corpus Christi, Texas. All of the employees of Flowbee International and Flowbee Haircutter

are located in and reside in Corpus Christi, Texas and the surrounding area. All of the documents and other business information of Flowbee International and Flowbee Haircutter are located in Corpus Christi, Texas.

4. On March 24, 2004, I sent a letter to Google, Inc. complaining of Google's improper use of a trademark owned by Flowbee International and demanding that Google cease and desist its improper use of the trademark. A true and correct copy of this letter is attached to this declaration as Exhibit A.

5. In or around March 2004, I created a Google AdWords advertising account. Although I understand that creation of this account may have required me to accept terms and conditions regarding the account, I did not retain a copy of those terms and conditions at that time. On or around February 2007, I signed on to my AdWords account. Upon signing on, a notice appeared stating that Google proposed revisions to the earlier terms and conditions regarding my AdWords account. The February 2007 terms and conditions regarding my AdWords account were drafted entirely by Google. Neither I, Flowbee International, nor Flowbee Haircutter drafted or negotiated any of these terms. The only options regarding the February 2007 terms and conditions presented by Google were to accept the revisions or to forego further use of my AdWords account.

6. The sales and customer service employees of Flowbee International and Flowbee Haircutter have received numerous communications from customers and others concerning confusion apparently resulting from Google's improper use of trademarked terms owned and licensed by Flowbee International and Flowbee Haircutter. These employees include Debra Kell, Jeanne Hoverson, and Terri Hoverson, all of whom reside in Corpus Christi, Texas or the surrounding area. In addition, Judge Mike Westergren, a resident of Corpus Christi, Texas, also has

expressed to Flowbee International confusion apparently resulting from Google's improper use of trademarked terms owned and licensed by Flowbee International and Flowbee Haircutter. Because these witnesses reside and work in Corpus Christi, Texas, I believe it would be inconvenient for them to attend trial in this matter in Santa Clara, California. I believe that trial in Corpus Christi, Texas would be much more convenient for these witnesses.

7. It would be extremely inconvenient for me to attend trial in Santa Clara, California. I am the primary management employee of Flowbee International. The significant travel and time away from Corpus Christi, Texas would unduly interfere with my ability to manage the business affairs of Flowbee International and its affiliated entities. Considering that the business activities of Flowbee International and its affiliates are my primary source of income, trial in California would also interfere with my ability to provide financial support for my family and me. In addition, attending trial in California would require to spend significant time away from my family in Corpus Christi, Texas. Attending trial in Corpus Christi, Texas would be much more convenient for me.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 1st day of October 2009, in Corpus Christi, Texas.



Rick Hunts

EXHIBIT A

Flowbee International
333 Anchor St.
Corpus Christi, Texas
78418

Ph.: 361 939 9908
Fax: 361 939 9925

VIA FACSIMILE 650-618-1499

Google, Inc.
Attn: Google AdWords, Trademark Complaints
1600 Amphitheatre Parkway
Mountain View, CA 94043

Re: Trademark Infringement

Dear Google, Inc

This is a letter to express concern that a search term associated with an advertisers listing is an improper use of my Registered Trademark. Please be advised that Flowbee International is the owner of a United States trademark registration for "Flowbee" in connection with hair clippers (U.S. Registration No. 1489925). Your service, uses the mark Flowbee without authority relative to the haircutting industry and further relative to a competing product manufactured by Robocut Inc. In addition, Google, Inc uses Flowbee description to attract web users to haircut.com and ebay.com to sell a competing product. These actions constitute several violations of federal law. These actions also constitute false advertising and unfair and deceptive trade practices in violation of both state and federal law.

In addition, the use by Robocut is not in a permissible nominative manner. It has caused considerable confusion among consumers because it is used in a comparative advertising campaign and the infringer sells both the competing product and my product on the same site. We ask that you review the site(s) at haircut.com and remove the infringing use.

1. The search term is Flowbee.
2. The trademark registered with the USPTO is Flowbee.
3. The current registration number is 1489925
4. Customers who have purchased a Robocut product return it to Flowbee with complaints when it does not work properly. They do not know that they did not buy a Flowbee. That is confusion.
5. I have sent a cease and desist letter to the infringer and several of the infringers re-sellers. An action is pending in California Federal Court, Northern District relative to this trademark matter.
6. Sponsored sites that robocuts are haircut.com and ebay.com

Accordingly, demand is made as follows:

Flowbee demands that you determine that the use is not in accordance with your published guidelines and that you remove the advertisers listing immediately and stop all further use of the flowbee trademark in any form. Flowbee demands that you immediately cease and desist advertising Robocut products with the unauthorized use of the registered trademark Flowbee with your service, which constitutes false advertising and trademark infringement.

Flowbee International will not condone nor ignore this infringement and intends to hold Overture Services Inc. legally accountable. Flowbee will seek fair and reasonable compensation for false advertising and damages for trademark infringement. Accordingly, Flowbee reiterates the demand set forth at the beginning of this letter. Should Google, Inc. fail to comply with the demand completely and in a timely fashion in the sole opinion of Flowbee, Flowbee will pursue its legal remedies to the full extent of the law. Absent complete compliance with the demand made herein, Flowbee will initiate litigation in the United States District Court for statutory damages, actual damages equivalent to sales generated by robocut.com as a result of this infringement and false advertising and for all other rights and remedies available at law. Nothing herein shall be interpreted as a limitation of the rights and remedies available to Flowbee International.

Please confirm immediately upon receipt of this letter your prompt compliance of this demand.

Very truly yours,
Rick Hunts, President Flowbee International
ricc@flowbee.com



SBC LONG DISTANCE

Corporate ID: 426966
 Invoice BAN: 614126268
 BAN: 514260565
 Statement Date: 04/04/2004

Calls for 361-639-9925

Switched Outbound Voice

Domestic

	Date	Time	Place and Number Called	Type	Rate	Min:Sec	Amount	
221.	MAR 12	3:56pm	SAN JOSE	CA 408-518-8811	Direct	Day	02:05	0.07
222.	MAR 15	6:58am	GREEN BAY	WI 920-405-8471	Direct	Day	00:43	0.02
223.	MAR 15	11:25am	GREEN BAY	WI 920-405-8471	Direct	Day	00:38	0.02
224.	MAR 16	2:08pm	GREEN BAY	WI 920-405-8471	Direct	Day	00:37	0.02
225.	MAR 16	8:04am	CHARLOTTE	NC 704-571-5285	Direct	Day	00:44	0.02
226.	MAR 16	1:44pm	GREEN BAY	WI 920-405-8471	Direct	Day	00:57	0.03
227.	MAR 19	10:41am	PASADENA	CA 628-685-5801	Direct	Day	01:13	0.04
228.	MAR 19	12:43pm	PALO ALTO	CA 650-618-1498	Direct	Day	01:18	0.04
229.	MAR 19	12:46pm	LA JOLLA	CA 858-454-0702	Direct	Day	01:19	0.04
230.	MAR 22	9:49am	PASADENA	CA 628-685-5801	Direct	Day	01:11	0.04
231.	MAR 22	3:26pm	PALO ALTO	CA 650-618-1498	Direct	Day	02:03	0.07
232.	MAR 23	12:14pm	DE PERE	WI 920-337-8017	Direct	Day	00:47	0.03
233.	MAR 24	11:24am	GREEN BAY	WI 920-405-8471	Direct	Day	01:01	0.03
234.	MAR 24	2:28pm	SAN FRAN	CA 415-662-3288	Direct	Day	00:18	0.01
235.	MAR 24	2:29pm	SAN FRAN	CA 415-662-3299	Direct	Day	01:27	0.05
236.	MAR 26	6:12am	PALO ALTO	CA 650-618-1498	Direct	Day	01:10	0.04
237.	MAR 29	11:08am	GREEN BAY	WI 920-405-8471	Direct	Day	00:42	0.02
238.	MAR 29	11:18am	GREEN BAY	WI 920-405-8471	Direct	Day	00:49	0.03
239.	MAR 30	8:42am	RICHMOND	VA 804-635-4658	Direct	Day	01:42	0.06
240.	MAR 30	12:18pm	GREEN BAY	WI 920-405-8471	Direct	Day	00:39	0.02
241.	MAR 31	9:08am	GREEN BAY	WI 920-405-8471	Direct	Day	00:58	0.03
242.	MAR 31	11:47am	SNOHOMISH	WA 360-658-4564	Direct	Day	00:32	0.02
243.	MAR 31	1:03pm	CHICAGO	IL 312-632-2178	Direct	Day	00:38	0.02
244.	MAR 31	2:48pm	FARMINGTON	CT 860-677-5533	Direct	Day	00:42	0.02
245.	MAR 31	3:46pm	FARMINGTON	CT 860-677-5533	Direct	Day	00:42	0.02

Subtotal Domestic Calls for 361-639-9925 1.06

Total Domestic Calls for 361-639-9925 1.06

Total Switched Calls for 361-639-9925 1.06

Calls for 361-639-9925

Switched Outbound Voice

Domestic

	Date	Time	Place and Number Called	Type	Rate	Min:Sec	Amount	
246.	MAR 02	1:09pm	DEL MAR	CA 658-755-6567	Direct	Day	00:16	0.01
247.	MAR 02	1:10pm	DEL MAR	CA 658-259-1278	Direct	Day	23:25	0.80
248.	MAR 02	4:04pm	SAN DIEGO	CA 619-690-5911	Direct	Day	00:27	0.02